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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,982	07/12/2001	Steven Richey	2705-701	3810

20575 7590 04/16/2007  
MARGER JOHNSON & MCCOLLOM, P.C.  
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PORTLAND, OR 97204

EXAMINER
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STEVENS, THOMAS H

ART UNIT	PAPER NUMBER
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2121

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/904,982

Applicant(s)

RICHEY ET AL.

Examiner

Thomas H. Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-53 were examined.

#### *Section I: Final Rejection*

#### *Claim Rejections - 35 USC § 103*

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-53 are rejected under 35 U.S.C. 103(a) as unpatentable by Sato (U.S. 6,539,498 (2003)) in view of Schuster et al., (U.S. Patent 6,170,075 (2001)).

**Per claims 1,7,9,10,11,12,16,20,21,22,23,30,31,32,33,41,42,43,44,52,53 Sato teaches**

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- a method for creating a simulation (column 4, lines 61-65)
- monitoring communication between an end device and a real device during a communication sequence (columns 1 and 2, lines 64-67 and 1-6, respectively with figure 1),
- from said end device that are directed to said real device (abstract, line 2)
- a plurality of outputs from said real device (column 8, lines 54-65)
- capturing said communication between said end device and said real device ("LAN/WAN" column 14, lines 20-30);
- generating a simulation application for simulating an output of said real device (column 4, lines 3-10 "a print out of at step S22. This ends the procedure" see figure 1)

**But Sato fails to teach communication sequences and line commands, which Schuster teaches**

**Per claims 1,2,10,12,19,22,28,31,33,42,44,53 Schuster teaches**

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- communication comprising a plurality of line-commands (column 12, lines 1-20)
- each of said outputs generated in response to one of said line-commands (column 12, lines 1-20);
- based on said communication associated with said communication sequence (columns 11 and 12, lines 10-15 and 15-20, respectively, "TCP/IP packet protocols"), said simulation application able to present an identical output from said real device that corresponds to a particular line-command from said plurality of line-commands (column 12, lines 1-5, "channel code" and 8-10, "line elements")

At the time of invention, it would have been obvious to one of ordinary skill in the art to modify Sato by way of Schuster to improve the existing deficiencies of the data communication structure of real time media signals over the Internet (Shuster: background section, last paragraph).

**Per claims 2, 23,34,45 Schuster teaches**

- summarizing said plurality of line commands in a summary list (column: 11, lines 16-27, "flow table of IP packets")

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**Per claims 3, 24,35,46 Schuster teaches**

- grouping said plurality of line-commands into a series of steps, each of said series of steps comprising at least one line-command from said plurality of line-commands list (column: 11, lines 16-27, “flow table of IP packets”)

**Per claims 4,7,20,25,28,36,39,47,50 Schuster teaches**

- editing of said plurality of line-commands, said plurality of line-commands reflecting and including edited line-commands (“deletion of a packet”, column 11, lines 40-45)

**Per claims 5,7,20,26,37,48 Schuster teaches**

- introducing new line-commands into corresponding steps from said series of steps (column 12, lines 37-60).

**Per claims 6,20,21,27,38,49 Schuster teaches**

- providing step text for each of said series of steps, said step text including a short description associated (“TCP/IP”, column 11, lines 5-15)
- a corresponding step from said series of steps (“TCP/IP” packets, column 11, lines 16-26);

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- providing step detail for each of said series of steps, ((“TCP/IP” packets, column 11, lines 16-26) said step detail including detailed instructions and information associated
- a corresponding step from said series of steps (“TCP/IP” packets layers encompass a series of steps, column 11, lines 16-26).

**Per claims 7, 20,28 Schuster teaches**

- re-running said communication sequence (“re-sending packet stream ”column 12, lines 45-48)
- new line-commands (“re-sending packet stream ”column 12, lines 45-48)

**Per claims 8,13, 29,40,51 Schuster teaches**

- checking for invalid line-commands (“network access server may decide to delete the listing of packets”, column 11, lines 41-45).

**Per claims 9,12,20, 30,41, 52 Schuster teaches**

- permutation comprises a unique combination and order of line-commands (column 13, lines 5-17)

**Per claims 10, 31,42,53 Schuster teaches**

- simulation application is an exercise that simulates a realistic (“real-time media stream” column 14, lines 61-67)

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- interaction with said real device, said simulation application presenting realistic (column 14, lines 61-67)
- text and said step detail in an instructional exercise format ("packets", column 13, lines 5-17).

**Per claims 11,16,32,43 Schuster teaches**

- server (column 12, lines 13-20)

**Per claim 14, Sato teaches**

- flagging predetermined items of interest; and providing notification at said end device of said predetermined items of interest ("failure is identified" column 5, lines 25-30).

**Per claim 15, Schuster teaches**

- full syntax of each input in said plurality of inputs (column 12, lines 45-47); and replacing each input with their corresponding full syntax ("block coding scheme", column 12, lines 61-67).

**Per claim 17 Schuster teaches**

- Internet network device (columns 6, lines 29-30).

**Per claim 18 Schuster teaches**

- Internet content provider (columns 6, lines 29-30).



**Per claim 22,33 Sato teaches**

- a computer system (column 7, lines 35-37) comprising a processor, a memory unit, and a display screen wherein said memory

**Per claim 22, Schuster teaches**

- a communication sequencer (e.g. Reed-Solomon coding scheme, column 13, line 1-17) said communication comprising a plurality of line-commands from said end device that are directed to said real device,

***Section II: Response to Arguments***

**103**

5. Applicants are thanked for responding to this issue; however, applicants' arguments are non-persuasive in view of the prior art rejection as set forth above.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure:

- US Patent 6108309 teaches a network simulator for use as a testing tool for a network management system includes an input device for inputting data containing network elements, their attributes, and information about their configuration, for storage in memory. User-defined scenario instructions for specifying particular network behavior and user directives are input in real time, or in advance of simulation. The simulator includes an input/output processing component that receives commands from the network management system and user-scenario data or directives and forwards received commands and directives to a response generator processing component that generates appropriate responses in accordance with the network element behavior data stored in memory.

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (7:00 am- 4:30 pm EST).

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Anthony Knight 571-272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).



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